



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
901 N. 5TH STREET  
KANSAS CITY, KANSAS

FEB 27 2003

RECEIVED

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BUREAU OF WATER

Mr. Roderick L. Bremby, Secretary  
Kansas Department of Health & Environment  
1000 SW Jackson, Suite 540  
Topeka, KS 66612-1368

Dear Mr. Bremby:

Re: Neosho Basin TMDLs

This letter is in response to the Kansas submissions for John Redmond Lake Total Maximum Daily Loads (TMDLs) dated December 19, 2002. The Environmental Protection Agency (EPA) originally received the two John Redmond Lake TMDLs from the Kansas Department of Health and Environment (KDHE) on November 7, 2002 along with 13 other TMDLs located within the Neosho Basin. With this submission, the total number of approved TMDLs in the Neosho Basin stands at 37. In addition to fulfilling the Clean Water Act statutory requirement to develop TMDLs for those waters listed on a state's §303(d) list, this submission was made pursuant to Paragraph 7 of the Consent Decree entered on April 13, 1998.

EPA has completed its review of the John Redmond Lake eutrophication and siltation TMDLs with supporting documentation and information. By this letter EPA approves the two TMDLs submitted (enclosure A). Enclosed also with this letter are Region 7 TMDL Review Forms (enclosure B) which summarize the rationale for EPA's approval of each TMDL. EPA believes the separate elements of the TMDLs described in the enclosed forms adequately address the pollutants of concern, taking into consideration seasonal variation and a margin of safety.

Submitted along with the John Redmond Lake TMDLs were 13 Kansas permits within the Neosho River, Solomon River, Upper Republican, and Smokey Hill - Saline River Basins (enclosure C) to address 12 impaired waterbodies. Kansas has determined 12 impaired water body segments identified on the Kansas 1998 §303(d) list as point source impairments did not require TMDLs. Kansas ensures that NPDES permits for those facilities, identified as the sole contributor of the pollutant impairment on the waterbody, have been reissued either new permit limits for the pollutant of concern, or, compliance schedules which will bring the waterbody into attainment with water quality standards (WQS). It is EPA's understanding, based upon the information provided that as a result of effluent limitations already in place, the following 12 waterbody segments will be (or already are) in compliance with the 1999 Kansas WQS for the pollutants identified.

Additionally, the State of Kansas has indicated segment 8 of Mud Creek, within the Smoky Hill - Saline River Basin as identified on the Kansas 1998 §303(d) list, has no chloride impairment as previously anticipated. The point source contribution has not occurred and therefore no chloride impairments exist.

Kansas' determination not to develop TMDLs for these waterbody segments is consistent with paragraph five of the above referenced Consent Decree which reads:

"In fulfilling their obligations under this Consent Decree, Kansas is under no obligation to submit TMDLs to EPA nor is EPA under any obligation to establish TMDLs either (a) that are determined not to be needed consistent with Section 303(d) of the CWA and its implementing regulations, as either may be amended from time to time, including, but not limited to, 40 C.F.R. §130.7(b)(1), or (b) for WQLSs or pollutants that were on Kansas' 1996 Section 303(d) list but, consistent with the provisions of the CWA and its implementing regulations, were removed from any subsequent Kansas Section 303(d) list."

EPA is currently engaged in consultation under Section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service regarding these TMDLS. While EPA is approving these TMDLs at the present time, EPA may decide that changes to the TMDLs are warranted based upon the results of the consultation when it is completed.

EPA commends the State of Kansas and the KDHE staff on its cooperative and professional relationship with Region VII and continued efforts to submit TMDLs ahead of the Consent Decree schedule.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol Kather". The signature is fluid and cursive, with the first name "Carol" written in a larger, more prominent script than the last name "Kather".

Carol Kather  
Acting Director  
Water, Wetlands, and Pesticides Division

Enclosures

cc: Tom Stiles, KDHE, Topeka, KS  
John Simpson, KNRC, Inc., Kansas City, MO